

Assembly Bill No. 1492

CHAPTER 1023

An act to amend Section 1464 of the Penal Code, to amend Sections 4354, 4355, 4357, and 4359 of, to add Sections 4354.5, 4357.1, 4357.2, and 4358.5 to, and to repeal and add Section 4356 of, the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, Thomson. Traumatic brain injury project.

Existing law requires the State Department of Mental Health to establish up to 4 3-year demonstration projects for a postacute continuum-of-care model for adults 18 years of age or older with acquired traumatic brain injuries. These provisions are to be repealed as of January 1, 2000.

This bill would recast these provisions to, instead, require the department to designate sites in order to develop a system of postacute continuum-of-care models, revise the requirements for , and require the department to expand, participation in the project, and extend the authority for implementation of the project to January 1, 2005.

The people of the State of California do enact as follows:

SECTION 1. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty, in an amount equal to ten dollars (\$10) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is

suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.



(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars (\$850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars (\$850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97, 1997–98, and 1998–99 fiscal years shall not exceed the amount of five hundred thousand dollars (\$500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

SEC. 2. Section 4354 of the Welfare and Institutions Code is amended to read:

4354. For purposes of this chapter, the following definitions shall apply:

(a) “Acquired traumatic brain injury” is an injury that is sustained after birth from an external force to the brain or any of its parts, resulting in cognitive, psychological, neurological, or anatomical changes in brain functions.

(b) “Department” means the State Department of Mental Health.

(c) “Director” means the Director of Mental Health.

(d) “Vocational supportive services” means a method of providing vocational rehabilitation and related services that may include prevocational and educational services to individuals who are



unserved or underserved by existing vocational rehabilitation services.

(e) The following four characteristics distinguish “vocational supportive services” from traditional methods of providing vocational rehabilitation and day activity services:

(1) Service recipients appear to lack the potential for unassisted competitive employment.

(2) Ongoing training, supervision, and support services must be provided.

(3) The opportunity is designed to provide the same benefits that other persons receive from work, including an adequate income level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

(f) “Community reintegration services” means services as needed by clients, designed to develop, maintain, increase, or maximize independent functioning, with the goal of living in the community and participating in community life. These services may include, but are not limited to, providing, or arranging for access to, housing, transportation, medical care, rehabilitative therapies, day programs, chemical dependency recovery programs, personal assistance, and education.

(g) “Fund” means the Traumatic Brain Injury Fund.

(h) “Supported living services” means a range of appropriate supervision, support, and training in the client’s place of residence, designed to maximize independence.

(i) “Functional assessment” means measuring the level or degree of independence, amount of assistance required, and speed and safety considerations for a variety of categories, including activities of daily living, mobility, communication skills, psychosocial adjustment, and cognitive function.

(j) “Residence” means the place where a client makes his or her home, that may include, but is not limited to, a house or apartment where the client lives independently, assistive living arrangements, congregate housing, group homes, residential care facilities, transitional living programs, and nursing facilities.

SEC. 3. Section 4354.5 is added to the Welfare and Institutions Code, to read:

4354.5. The Legislature finds and declares the following:

(a) Ascertaining the number of Californians who survive traumatic brain injuries is difficult, but the best estimates are that there are approximately 225,000 survivors who have sustained “closed” or “open” head injuries.

(b) Traumatic brain injuries have a long-term impact on the survivors, their families, caregivers, and support systems.

(c) Long-term care consumers experience great differences in service levels, eligibility criteria, and service availability, resulting in

inappropriate and expensive care that fails to be responsive to their needs.

(d) California must develop an action plan with a timetable for implementation to ensure that there will be an array of appropriate services and assistance funded and administered by a state structure that has a focus and commitment to integration and coordination.

(e) The state must pursue, in a timely manner, all available sources of federal financial participation, including, but not limited to, the medicaid home and community-based services waiver program (42 U.S.C. Sec. 1396n(c)) and Part J of Subchapter II of the Public Health Service Act (42 U.S.C. Sec. 280b et seq.).

(f) The department, pursuant to this chapter, has funded and demonstrated, successfully, through four projects for a postacute continuum-of-care model for adults 18 years of age or older with acquired traumatic brain injuries, the array of services and assistance that meet the needs of these individuals and their families.

(g) The state shall replicate these models toward developing a statewide system that has as a goal the support of existing community-based agencies and organizations with a proven record of serving survivors of traumatic brain injuries.

(h) Implementation of the act that added this section shall be consistent with the state's public policy strategy to design a coordinated services delivery system pursuant to Article 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3 of Division 9.

SEC. 4. Section 4355 of the Welfare and Institutions Code is amended to read:

4355. The department shall designate sites in order to develop a system of postacute continuum-of-care models for adults 18 years of age or older with an acquired traumatic brain injury. The project sites shall coordinate vocational supportive services, community reintegration services, and supported living services. The purpose of the project is to demonstrate the effectiveness of a coordinated service approach which furthers the goal of assisting those persons to attain productive, independent lives which may include paid employment.

SEC. 5. Section 4356 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 4356 is added to the Welfare and Institutions Code, to read:

4356. (a) The department shall provide support to the four original pilot sites.

(b) (1) The department shall award and administer grants to four additional sites, to be selected through a competitive bidding process. One site shall be within each of the regions listed in Section 4357.2. It is the intent of the Legislature that one site be located in a rural area. Implementation of new project sites shall be contingent upon

the availability of funds, and new project sites shall be selected on an incremental basis as funds become available.

(2) Priority shall be given to applicants that have proven experience in providing services to persons with an acquired traumatic brain injury including, but not limited to, supported living services, community reintegration services, vocational support services, caregiver support, and family and community education.

(3) The department shall convene a working group, established pursuant to Section 4357.1, to assist them in developing requests for proposals and evaluating bids. In addition, the department shall use this working group as an advisory committee in accordance with requirements of Part J of Subchapter II of the Public Health Service Act (42 U.S.C. Sec. 280b et seq.) in order to pursue available federal funds including, but not limited to, Section 300d-52 of Title 42 of the United States Code.

(4) Each new site shall be in operation within six months following the grant award.

(5) The four additional sites prescribed by this subdivision shall be established to the extent that the availability of federal funds or other appropriate funds permit.

(c) (1) The department, with the advice and assistance of the working group, shall develop an independent evaluation and assist sites in collecting uniform data on all clients.

(2) The evaluation shall test the efficacy, individually and in the aggregate, of the existing and new project sites in the following areas:

(A) The degree of community reintegration achieved by clients, including their increased ability to independently carry out activities of daily living, increased participation in community life, and improved living arrangements.

(B) The improvements in clients' prevocational and vocational abilities, educational attainment, and paid and volunteer job placements.

(C) Client and family satisfaction with services provided.

(D) Number of clients, family members, health and social service professionals, law enforcement professionals, and other persons receiving education and training designed to improve their understanding of the nature and consequences of traumatic brain injury, as well as any documented outcomes of that training and education.

(E) The extent to which participating programs result in reduced state costs for institutionalization or higher levels of care, if such an estimate can be obtained within the 10 percent of funds allowed for the evaluation.

(3) The department shall expend not more than 10 percent of the annual program amount on the evaluation. The evaluator shall be chosen by means of competitive bid and shall report to the department.

(4) The evaluator shall make an interim report to the Legislature within two years of being selected, and shall make a final report to the Legislature by January 30, 2003.

SEC. 7. Section 4357 of the Welfare and Institutions Code is amended to read:

4357. (a) The sites shall be able to identify the special needs and problems of clients and the services shall be designed to meet those needs.

(b) The sites shall match not less than 20 percent of the amount granted, with the exception of funds used for mentoring. The required match may be cash or in-kind contributions, or a combination of both, from the sites or any cooperating agency. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

(c) The sites shall provide at least 51 percent of their services under the grant to individuals who are Medi-Cal eligible or who have no other identified third-party funding source.

(d) The sites shall provide, directly or by arrangement, a coordinated service model to include all of the following:

(1) Supported living services.

(2) Community reintegration services.

(3) Vocational supportive services.

(4) Information, referral, and, as needed, assistance in identifying, accessing, utilizing, and coordinating all services needed by individuals with traumatic brain injury and their families.

(5) Public and professional education designed to facilitate early identification of persons with brain injury, prompt referral of these persons to appropriate services, and improvement of the system of services available to them.

The model shall be designed and modified with advice from clients and their families, and shall be accessible to the population in need, taking into account transportation, linguistic, and cultural factors.

(e) The sites shall develop and utilize an individual service plan which will allow clients to move from intensive medical rehabilitation or highly structured living arrangements to increased levels of independence and employment. The goals and priorities of each client shall be an integral part of his or her service plan.

(f) The sites shall seek all third-party reimbursements for which clients are eligible and shall utilize all services otherwise available to clients at no cost, including vocational rehabilitation services provided by the Department of Rehabilitation. However, grantees may utilize grant dollars for the purchase of nonreimbursed services or services otherwise unavailable to clients.

(g) The sites shall endeavor to serve a population that is broadly representative with regard to race and ethnicity of the population with traumatic brain injury in their geographical service area, undertaking outreach activities as needed to achieve this goal.

(h) The sites shall maintain a broad network of relationships with local groups of brain injury survivors and families of survivors, as well as local providers of health, social, and vocational services to individuals with traumatic brain injury and their families. The sites shall work cooperatively with these groups and providers to improve and develop needed services and to promote a well-coordinated service system, taking a leadership role as necessary.

SEC. 8. Section 4357.1 is added to the Welfare and Institutions Code, to read:

4357.1. (a) The department shall convene a working group including the following persons as selected by the director:

- (1) A survivor currently using services in the program.
- (2) Two family members of persons surviving traumatic brain injuries, one of whom shall be a family member of a person with significant disabilities resulting from injuries.
- (3) A representative of the Brain Injury Association of California.
- (4) A representative of each of the existing sites.
- (5) A representative of the Caregiver Resource Centers.
- (6) A representative of the California Foundation for Independent Living Centers.
- (7) A representative of the Public Interest Center for Long-term Care.
- (8) A representative of the California Rehabilitation Association.
- (9) A member from a survivor's organization.
- (10) Representatives of the Department of Rehabilitation and the State Department of Health Services and others as determined by the director.

(b) Members of the working group shall participate without compensation. The working group may be reimbursed by the department for expenses related to the meetings, as determined by the director.

(c) The department shall consult with the working group on the following, as determined by the director:

- (1) Development of the evaluation instrument and plan.
- (2) Selection and development of the four new sites.
- (3) Progress reports and input from participating state or local agencies and the public.
- (4) Project implementation, achievements, and recommendations regarding project improvement.
- (5) Development of recommended strategies and guidelines for accident prevention and training of peace officers in awareness of brain injury issues. These recommendations shall be made available for use by the department, project sites, other state agencies, and other appropriate entities.
- (6) A recommended plan including financial requirements for expansion of the project to all regions of the state to be completed and issued by January 1, 2003.

(d) Contracts awarded pursuant to this part and Part 4 (commencing with Section 4370), including contracts required for administration or ancillary services in support of programs, shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.

SEC. 9. Section 4357.2 is added to the Welfare and Institutions Code, to read:

4357.2. (a) New sites shall be chosen from areas of the state that are not currently served by a site. Two new sites shall be located in the southern portion of the state and two new sites shall be located in the northern portion of the state. Of these, at least one site shall be located in a rural area. Nothing in this chapter shall prohibit a site from serving multiple counties. Implementation of the new sites shall be contingent upon funds appropriated by the Legislature and funds becoming available for this purpose.

(b) The department, in conjunction with the existing sites, shall develop guidelines and procedures for the coordinated continuum-of-care model and its component services. The existing sites shall assist the department in providing orientation, training, and technical assistance to the new sites.

(c) Up to 10 percent of funds allocated to new sites during their first year of operation may be expended for training, technical assistance, and mentoring by existing sites and any other source of assistance appropriate to the needs of the new sites. A plan and budget for technical assistance and mentoring shall be included in the proposals submitted by potential sites.

(d) Mentoring activities shall include, but not be limited to, assisting new sites in refining their continuum-of-care model and its component services, developing guidelines and procedures, and providing advice in meeting the needs of traumatic brain injury survivors and their caregivers, as well as carrying out community outreach and networking with community groups and service providers. Mentoring shall be carried out with the goal of responding to the needs identified by the new sites, transferring the knowledge and expertise of the existing sites, and helping each new site to be successful in developing an effective program that takes into account the needs, resources, and priorities of their local community. Mentoring shall be coordinated with and overseen by the department.

(e) Department staff and site directors shall meet quarterly as a group for ongoing technical assistance, transfer of knowledge, and refinement of the models of continuum of care.

(f) Existing and new sites may allocate up to 15 percent of annual program funds to any appropriate caregiver resource center to assist in caregiver services.

SEC. 10. Section 4358.5 is added to the Welfare and Institutions Code, to read:

4358.5. (a) Funds deposited into the Traumatic Brain Injury Fund pursuant to paragraph (8) of subdivision (f) of Section 1464 of the Penal Code shall be matched by federal vocational rehabilitation services funds for implementation of the Traumatic Brain Injury program pursuant to this chapter. However, this matching of funds shall be required only to the extent it is required by other state and federal law, and to the extent the matching of funds would be consistent with the policies and priorities of the Department of Rehabilitation regarding funding.

(b) The department shall seek and secure funding from available federal resources, including, but not limited to, medicaid and drug and alcohol funds, utilizing the Traumatic Brain Injury Fund as match and shall seek any necessary waiver of federal program requirements to maximize available federal dollars.

SEC. 11. Section 4359 of the Welfare and Institutions Code is amended to read:

4359. This chapter shall remain in effect until January 1, 2005, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

